

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
5:06-HC-2228-FL

UNITED STATES OF AMERICA                     )  
   )  
                          Petitioner,                     )  
   )  
                          v.                                 )  
   )  
LEROY MILLER,                                     )  
   )  
                          Respondent.                     )

**ORDER**

This case comes before the court on petitioner's Motion for Voluntary Dismissal With Prejudice With Leave of Court (DE # 69), along with a settlement agreement signed by the parties. Pursuant to 28 U.S.C. § 636(b)(1), United States Magistrate Judge James E. Gates entered a memorandum and recommendation ("M&R") wherein he recommends that the court allow the motion. The parties have executed and filed a waiver of their right to object to the M&R, lodged on the docket at entry 74. In this posture, the issues raised are ripe for ruling. For the reasons that follow, the court adopts the findings and recommendations of the magistrate judge.

Upon careful review of the M&R, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Because the parties have waived their right to object, the court reviews the magistrate judge's findings and conclusions only for clear error, and need not give any explanation for adopting the M&R. Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

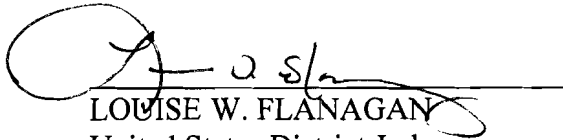
The court hereby ADOPTS the M&R as its own and FINDS that respondent was fully competent to enter into the settlement agreement and that he knowingly and voluntarily did so after having an adequate opportunity to confer with counsel; and that the government also knowingly and voluntarily entered into the settlement agreement.

IT IS THEREFORE ORDERED that:

1. The motion (DE # 69) is ALLOWED;
2. The case is DISMISSED WITH PREJUDICE pursuant to Fed. R. Civ. P. 41(a)(2);
3. The stay of respondent's release from Bureau of Prisons custody is LIFTED and respondent shall be RELEASED forthwith from Bureau of Prisons custody; and
4. Respondent shall report to the United States Probation Office for the Northern District of Mississippi within 72 hours of his release in order to comply with the amended judgment entered by that court on February 27, 2006, in the case of United States v. Leroy Miller, Docket No. 4:03-CR-00108-GHD-EMB (DE # 29).

The Clerk is DIRECTED to send a copy of this order to the Clerk of Court for the Northern District of Mississippi, P.O. Box 704, Aberdeen, MS 39730.

SO ORDERED, this the 28<sup>th</sup> day of November, 2011.

  
LOUISE W. FLANAGAN  
United States District Judge